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CARTER, LEDYARD & MILBURN

COUNSELLORS AT LAW

1350 I STREET, N. W.

SUITE 870

WASHINGTON, D. C. 20005

2 WALL STREET  
NEW YORK, N. Y. 10005

(212) 732-3200

(202) 898-1515

FAX: (202) 898-1521

114 WEST 47TH STREET  
NEW YORK, N. Y. 10036

(212) 944-7711

July 28, 1995

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

BY HAND

Mr. William F. Caton, Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Petition for Reconsideration in  
CC Docket No. 92-115 -- Ex Parte Presentation

Dear Mr. Caton:

This is to provide notice, pursuant to Section 1.1206 of the Commission's Rules, that Carol A. Patton, President of C-Two-Plus Technology ("C2+"), Dr. Richard C. Levine, a C2+ consultant and the undersigned, as counsel for C2+, met yesterday with the following Commission representatives:

Regina M. Keeney -	Chief, Wireless Telecommunications Bureau
Daniel B. Phythyon -	Senior Legal Advisor to the Chief, Wireless Telecommunications Bureau
Rosalind K. Allen -	Acting Chief, Commercial Wireless Division, Wireless Telecommunications Bureau
Steve Markendorff -	Chief, Broadband Branch, Commercial Wireless Division
Sally Novak -	Chief, Legal Branch, Commercial Wireless Division
B.C. Jackson, Jr. -	Engineering Advisor to the Chief, Commercial Wireless Division
Barbara Espin -	Commercial Wireless Division
John W. Berresford -	Attorney, Office of General Counsel, Division of Competition

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The following individuals also attended the meeting on behalf of the organizations noted:

Allan Angus -	Japan Radio Corporation, Inc./Telecommunications Industry Association
Grier Raclin -	Gardner, Caston & Douglas/Telecommunications Industry Association
Roberta Breden -	Telecommunications Industry Association
Kristen Heavener -	MT Communications
Mike Heavener -	MT Communications/Independent Cellular Services Association
Ron Foster -	Independent Cellular Services Association
William Osborn -	Ericsson Corporation
James Caile -	Motorola
Brent E. Marshall -	Attorney, Department of Justice Antitrust Division, Telecommunications Task Force
Michael F. Altschul -	Vice President and General Counsel, Cellular Telecommunications Industry Association
Andrea D. Williams -	Staff Counsel, Cellular Telecommunications Industry Association
Roseanna DeMaria -	McCaw Cellular Communications, Inc.
Kathleen A. Massey -	Vice President for External Affairs, McCaw Cellular Communications, Inc.
Tom McClure -	Fraud Task Force, Cellular Telecommunications Industry Association
Les Owens -	GTE Laboratories Inc.
Paul Schomburg -	Matsushita Electric Corporation of America

The matters discussed were those identified in the attached agenda; issues raised in various pending petitions for reconsideration and other submissions in the record in this proceeding, including the "Report on ESN Emulation and Cellular Phone Extension Service" prepared by Dr. Levine and submitted by C2+ on July 7, 1995; and various materials provided by representatives of the Cellular Telecommunications Industry Association at the meeting.

Mr. William F. Caton, Secretary

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In addition, pursuant to the request of the Wireless Telecommunications Bureau, C2+ agreed to prepare and circulate to the Commission personnel and to all other parties listed above on or before August 10, 1995 proposed modifications to Rule 22.919 which would authorize the transfer of an electronic serial number ("ESN") for the limited purpose of providing an authorized cellular subscriber with "extension" cellular phones which emit the same ESN as the cellular phone which the subscriber already has registered on the system.

If you have any questions regarding this matter, please contact me.

Very truly yours,



Timothy J. Fitzgibbon  
Counsel for  
C-Two-Plus Technology

TJF:kdd

Enclosure

cc: Regina M. Keeney, Esquire  
Daniel B. Phythyon, Esquire  
Rosalind K. Allen, Esquire  
Steve Markendorff, Esquire  
Sally Novak, Esquire  
B.C. Jackson, Jr., Esquire  
John W. Berresford, Esquire  
Barbara Espin, Esquire

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**Ex-Parte Presentations  
Addressing Petitions for Reconsideration of  
FCC Rule and Policy on  
Cellular Electronic Serial Numbers  
Adopted in CC Docket No. 92-115**

July 27, 1995

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**JUL 28 1995**  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

**AGENDA**

**I. Opening Remarks**

- |   |                  |
|---|------------------|
| <b>A. Welcoming Remarks</b>                       | <b>FCC Staff</b> |
| <b>B. Introductions</b>                           | <b>Attendees</b> |
| <b>C. Ground Rules; Limit on Scope of Meeting</b> | <b>FCC Staff</b> |

**1. Topics to Discuss:**

- a. New Rule Section 22.919 (under reconsideration by FCC)**
- b. Policy Statement on Altering the ESN of a Cellular Telephone or Knowing Use of a Cellular Telephone with Altered ESN (under reconsideration by FCC)**

**II. Rule Section 22.919 - Electronic Serial Numbers**

**A. Rule is outgrowth of OET-53, Cellular Compatibility specification; intended to assist in reducing fraud losses of cellular carriers. It sets forth design criteria to be met by manufacturers as a condition of type acceptance of cellular telephones.**

**B. Issues -**

- 1. Will new Section 22.919 assist in reducing fraud losses of cellular carriers?**
- 2. Is it feasible for manufacturers of cellular telephones to comply with new Section 22.919?**
- 3. Would it be impossible or much more difficult to repair or update cellular telephones that comply with Section 22.919?**

III. Policy Statement on Altering ESN or Knowing Use of a Cellular Telephone with Altered ESN; [see Part 22 Rewrite Report and Order, paragraphs 60-62]

A. Policy statement says:

1. Knowing use of a cellular telephone with an altered ESN violates FCC rule (§ 22.377) requiring use of type accepted equipment.
2. Use of equipment that carrier has not authorized for use on its system constitutes violation of Section 301 of Communications Act of 1934, as amended (47 U.S.C. §301).
3. Any individual or company that knowingly alters cellular telephone to cause it to transmit ESN other than the one originally installed by manufacturer is aiding in violation of FCC rules.
4. Use of C2+ altered cellular telephones constitutes a violation of the Communication Act and FCC Rules.

B. Statement is based on following assumptions:

1. Simultaneous use of two or more cellular telephones emitting the same ESN without the licensee's permission could cause problems in some cellular systems such as erroneous tracking or billing.
2. Use of such phones without the licensee's permission could deprive cellular carriers of monthly per telephone revenues to which they are entitled.
3. Use of such phones would not be authorized by the carrier and would, therefore, not fall within the carrier's blanket license, and thus would be unlicensed, violating Section 301 of the Communications Act.

C. Issues -

1. Does simultaneous use of two or more cellular telephones emitting the same ESN cause problems in some cellular systems? Does it make any difference whether the licensee gives permission (i.e., do problems result because the licensee does not know about the cloned telephone or would problems happen anyway)?
2. Do cellular service contracts specify to customers that there would be an additional monthly fee plus airtime charges for additional telephones?
3. Does the typical cellular subscriber agreement authorize the use of only specific equipment, or does it authorize the use of any type accepted equipment the subscriber wishes to employ?